

The Examiner supported the restriction requirement by citing M.P.E.P. §§ 806.04 and 808.01 and stating that the “inventions” are unrelated insofar as the claimed methods “require different materials to practice and different method steps which all result in materially different effects/outcomes.” Office Action mailed 5/9/01 at page 3. Applicant

respectfully disagrees that the “inventions” are unrelated. M.P.E.P. § 808.01 states, in pertinent part, that “[t]his situation, except for species, is but rarely presented, since persons will seldom file an application containing disclosures of independent things.” Inspection of claims 1-23 of the instant application reveals that all of the pending claims recite related subject matters. Elected claims 4-8 are drawn to methods of screening for migration modulators using ECM signaling molecule-related biomaterials such as Cyr61. Claims 1-3 and 9-23, categorized in Groups I and III-VIII, are drawn to methods of screening for modulators of a variety of other activities influenced by ECM signaling molecule-related biomaterials such as Cyr61, as well as cells harboring mutations in a gene encoding Cyr61. Thus, the unifying characteristic of pending claims 1-23 is the involvement of an ECM signaling molecule-related biomaterial such as Cyr61.

In addition to citing M.P.E.P. § 808.01, the Examiner relied on M.P.E.P. § 806.04 which provides, in subsection (A), that two different combinations may be independent “inventions,” and providing the method-related example of painting a house and boring a well. The subject matters of pending claims 1-23, relating to ECM signaling molecule-related biomaterials, are not analogous to claiming methods of painting a house and boring a well. As noted above, the unifying characteristic of all of the pending claims is the involvement of ECM signaling molecule-related biomaterials and that unifying characteristic is not reconcilable with a restriction requirement predicated on M.P.E.P. § 806.04, or on the rarely presented circumstances addressed by M.P.E.P. § 808.01.

For the foregoing reasons, Applicant submits that the restriction requirement imposed in the Office Action mailed May 9, 2001, is not supported by the facts of the present application and may properly be withdrawn.


Applicant submits that no fee is due in this matter under 37 C.F.R. §1.97(b).

However, if it is determined that any appropriate fee is due, please charge Deposit Account No. 13-2855. A duplicate of this paper is enclosed.

Respectfully submitted,

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